

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

VYSHAWN MALICK WARR,

Defendant.

NO. 2:19-cr-00160-RAJ

ORDER ON DEFENDANT'S MOTION  
TO APPLY JURY RIGHTS AND THE  
REASONABLE DOUBT STANDARD  
TO EVIDENTIARY HEARING

THIS MATTER comes before the Court upon defendant's Motions to Apply Jury Rights and the Reasonable Doubt Standard to his upcoming evidentiary revocation hearing scheduled for August 5, 2022. Dkt. 85. Having considered the motion, the government's response, and the files and pleadings herein, the Court **DENIES** the defendant's motion.

Mr. Warr is currently scheduled for an evidentiary hearing on August 5, 2022, regarding the allegation that he violated a condition of supervised release by failing to "obey all laws by possessing a firearm." Dkt. 66. The defendant's motion seeks the determination of whether he has committed this offense by a jury utilizing the reasonable doubt standard. The defendant admits that his position is contrary to the applicable statute and Ninth Circuit case authority. Dkt. 85. Specifically, 18 U.S.C. § 3583, *United*

1 *States v. Oliver*, \_\_\_ F.4th \_\_\_, 2022 WL 2899265 (9th Cir., July 22, 2022) and *United*  
2 *States v. Henderson*, 998 F.3d 1071 (9th Cir. 2021) all dictate that the defendant's  
3 motion is without merit and should be denied. At best, the Court treats this motion as the  
4 defendant's request to preserve his objection to the applicable standard that the Court will  
5 apply at the evidentiary hearing. Consequently, the Court will make the determination of  
6 whether the defendant committed the violation applying the preponderance of evidence  
7 standard.

8 For these reasons, the defendant's motion (Dkt. 85) is **DENIED**.

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10 DATED this 1st day of August, 2022.

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13 HON. RICHARD A. JONES  
14 United States District Judge  
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